

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P8209PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/DE2004/001410	International filing date (day/month/year) 02.07.2004	Priority date (day/month/year) 11.07.2003
International Patent Classification (IPC) or national classification and IPC E04G17/04		
Applicant PERI GMBH		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2.	This REPORT consists of a total of 6 sheets, including this cover sheet.	
3.	This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of 1 sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).	
4.	This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2004/001410

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
 - ☐ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1-17 _____ as originally filed/furnished
 - pages* _____ received by this Authority on _____
 - pages* _____ received by this Authority on _____
 - ☒ the claims:
 - nos. 2-10 _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* 1 _____ received by this Authority on 06.05.2005 with letter
 - nos.* _____ received by this Authority on of 04.05.2005
 - ☒ the drawings:
 - sheets 1/4-4/4 _____ as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☒ the claims, nos. 1 _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	3, 4, 6, 8, 10	YES
	Claims	1, 2, 5, 7, 9	NO
Inventive step (IS)	Claims		YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

Basis of the report

1.1 The part of claim 1 according to which "the wedge is guided obliquely in the clamping device" is too broadly worded and was not found to be supported by the application as originally filed. In particular it is not clear with respect to which other feature (for example, the arm) the wedge is obliquely guided. From the application as originally filed it would appear that the wedge is guided obliquely with respect to the clamping direction (see figure 2, angle ε).

Reasoned statement with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement

1.1 Reference is made to the following documents:

D1: DE 27 16 864 A (DINGLER GERHARD),
19 October 1978 (1978-10-19)

D2: US-A-2 868 250 (HOLMBOE SR LAWRENCE S),
13 January 1959 (1959-01-13)

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D3: EP-A-0 537 403 (UBINANA FELIX JOSE LUIS),

21 April 1993 (1993-04-21)

D4: DE 35 45 273 A (PERI WERK SCHWOERER KG ARTUR),

25 June 1987 (1987-06-25)

- 2.1 The application fails to meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel (PCT Article 33(2)).

Document D2 discloses the following (the references in parentheses are to D2):

A clamping device [for bracing concrete formwork elements] with two arms (20, 45) and a wedge (54), the arms (20, 45) being designed to slide towards each other in a clamping direction (**see figure 1; the clamping direction corresponds to the longitudinal axis of (16)**); the wedge (54) (*in the clamping device*) being guided in a wedge guidance direction (**by elements including (72)**); the driving distance (*of the wedge in the clamping device*) determining the displacement of the arms; the wedge being guided obliquely (*with respect to the clamping direction*) in the clamping device (**see figure 1; the wedge (54) is guided in its direction of translation between the positions indicated by the solid and dashed lines; this direction is oblique to (for example) the clamping direction**); the inclination of the wedge in the clamping device towards the clamping direction (**interpreted as meaning, for example, the angle between the longitudinal axis of the wedge and the**

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clamping direction (see figure 3e in the present application) or the angle between surface (60) and the clamping direction) forming an angle λ , such that the angle between the wedge guidance direction and the clamping direction is less than 90°.

It is also noted that the wording of claim 1 does not exclude the possibility that the angle λ is 90°. An interpretation of the phrase "inclination of the wedge in the clamping device towards the clamping direction" as meaning "angle between the surface (56) of the wedge and the clamping device" would also correspond to claim 1.

2.2 The features of claims 1, 2, 5 and 7 appear to be known from document D2.

2.3 Claim 9 does not contain any other technical features of the clamping device; instead, it simply specifies a particular type of intended use that cannot be regarded as a distinguishing feature and should be disregarded in the assessment of novelty (see PCT Guidelines, paragraph 12.05). The clamping devices of documents D1, D2 and D3 appear to be suitable for this type of use (for example, they could be fitted without modification to the outer joint corner in D4 (see figure 5). Claim 9 is therefore anticipated by the prior art.

2.4 Dependent claims 3, 4, 6, 8 and 10 relate to minor structural modifications to the subject matter of the claims to which they are appended, of the kind that a

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person skilled in the art would routinely make on the basis of familiar considerations, especially since the resulting advantages are readily predictable. The subject matter of these claims therefore does not involve an inventive step.

- 3.1 It would appear that CH-A-685 453 has been confused with document D1 in this report. However, this does not affect the conclusion reached in the report because the conclusion is based entirely on document D2.